

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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LORNA GERIS, Individually, and as  
Personal Representative of the Estate of FRED GERIS,  
and as Parent and Natural Guardian of Christopher,  
Matthew, and Kristine Geris, and the WORKPLACE  
SAFETY & INSURANCE BOARD  
OF ONTARIO, as Subrogee,

Plaintiffs,

v.

Civil Action No.: 1:07 CV 00376

DiSILVA TAUNTON EXPRESS INC. and  
JOSE L. MARTE,

Defendants.

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**NOTICE OF CROSS MOTION**

**NATURE OF ACTION:** Assignment and subrogation.

**MOVING PARTY:** Defendants DiSilva Taunton Express, Inc.,  
and Jose L. Marte.

**DIRECTED TO:** The plaintiffs.

**DATE AND TIME:** To be determined by the Court.

**PLACE:** Honorable John T. Curtin, United States District Court Judge  
United States Court House, 2 Niagara Square,  
Cattaraugus Courtroom, 7th Floor,  
Buffalo, New York 14202.

**SUPPORTING PAPERS:** Declaration of Joshua P. Rubin, Esq., dated January 21, 2014, with  
attached exhibits; Memorandum of Law, dated January 21, 2014.

**ANSWERING PAPERS:** Opposing papers, if any, are required to be filed and served  
pursuant to Court order. Defendants DiSilva Taunton Express,  
Inc., and Jose L. Marte, intend to submit reply papers.

**RELIEF REQUESTED:** An order granting defendants' application to amend their answer to include two additional affirmative defenses, and denying plaintiffs' motion to strike.

**GROUND FOR RELIEF:** FRCP 15(a)(2).

**ORAL ARGUMENT:** Requested.

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**DATED:** Buffalo, New York  
January 21, 2014

**RUPP, BAASE, PFALZGRAF  
CUNNINGHAM & COPPOLA LLC**  
Attorneys for Defendants,  
DiSilva Taunton Express Inc. and Jose L. Marte

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